PROPERTY—PERSONALTY AND REALTY—MUSSELS AND SHELL-FISH.—The defendant removed a large quantity of mussels growing in a natural bed in a river whose bed was there owned by the plaintiff. The latter sued to recover damages for the taking, and in order to bring the case within a statute allowing treble damages for digging up any material which was a part of the realty, alleged that the mussels were such. *Held,* that the plaintiff could not recover, as mussels were not a part of realty within the meaning of the statute, and also, they being *ferae naturae,* the plaintiff had no "property" in them. *Gratz v. McKee et al.* (1919, C. C. A. 8th) 258 Fed. 335.

The question whether animals *ferae naturae* are realty or personalty depends first upon whether or not they are "property" at all. There are two views as to this: one, that they are the property of the state in its sovereign capacity until reduced to possession by an individual who then becomes the owner; the other that they are not owned by the state or any individual, but belong to the one who reduces them to possession. See *Geer v. Connecticut* (1896) 161 U. S. 519, 529, 539, 16 Sup. Ct. 600, 604, 608. These views can in part be reconciled; both the state and the individual have some of the incidents of "property." "Property" in the state seems to consist only in the power to make treaties as to the things in question and to regulate the conditions under which the individual's power of capture may be exercised. *Cf. United States v. Samples* (1919, W. D. Mo.) 258 Fed. 479; *cf. McCready v. Virginia* (1876) 94 U. S. 391. Generally, each individual has a privilege and power to become the owner by reducing the animal to possession. But some difficulty arises in determining whether animals whose situs is quasi-permanent fall under the head of realty or personalty. The few cases on this subject that have been found indicate such property is personalty. Mussels, like oysters, are shell-fish, and should have the same status. Cultivated oysters are treated as personalty in that they may be the subject of larceny. *People v. Morrison* (1909) 194 N. Y. 175, 86 N. E. 1120. And they may be converted. *Vroom v. Tilly* (1906) 184 N. Y. 168, 77 N. E. 24.

STATUTE OF LIMITATIONS—NEW PROMISE—BY NEWSPAPER PUBLICATION.—Pending final adjudication of the validity of a state act to regulate freight rates within the state, the defendant railroad charged the plaintiff higher rates than those fixed by the act. The act was later held valid and the defendant published a notice that it would make prompt payment of properly supported claims arising from the overcharge. The statute of limitations had run against the plaintiff's claim before publication of this notice. He presented his claim, but the defendant refused to pay. The plaintiff sued the defendant to recover the overcharge. *Held,* that he was entitled to recover because the promise by publication started a new period of limitation. *Big Diamond Milling Co. v. Chicago, M. St. P. Ry.* (1919, Minn.) 171 N. W. 799.

It is universally held that in order to start a new period of limitation the old debt must be acknowledged as presently existing. *Custy v. Donlan* (1893) 159 Mass. 245, 34 N. E. 360; *Russell & Co. v. Davis* (1891) 51 Minn. 482, 53 N. W. 766. There must, in addition, be an express promise to pay the debt or circumstances from which such a promise may fairly be implied. *Moore v. Bank of Columbia* (1832, U. S.) 6 Pet. 86; *Levy v. Popper* (1905) 106 App. Div. 394, 94 N. Y. Supp. 905. Furthermore, the new promise must identify the debt. *Anderson v. Nystrom* (1908) 103 Minn. 168, 114 N. W. 742; *Pierce v. Merrill* (1900) 128 Cal. 473, 61 Pac. 67. But the cases vary as to when this identity is established. *Cf. Thompson v. French* (1837, Tenn.) 10 Yerg. 452; *Belcher v. Tacoma Eastern Ry.* (1917) 99 Wash. 34, 168 Pac. 782. The authorities are